



Brian Sandoval
Governor

Barbara Smith Campbell
Chairwoman

Jon M. Hager
Executive Director

Silver State Health Insurance Exchange

808 W. Nye Lane, Suite 204, Carson City, NV 89703 • T: 775-687-9939 F: 775-687-9932
exchange.nv.gov

DRAFT¹

PRODUCERS AND NAVIGATORS

DRAFT¹

IN THE

SILVER STATE HEALTH INSURANCE EXCHANGE

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1.0 PURPOSE

The purpose of this document is to provide information regarding the roles and responsibilities of Producers² and Navigators in the Silver State Health Insurance Exchange. Information is also provided regarding Producer and Navigator licensing, certification and training, compensation structure, conflicts of interest and relationship with insurers and performance metrics.

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¹ This document must be approved by the Consumer Assistance Advisory Committee and the Exchange Board. This preliminary report is provided so that the public may make comments and suggestions to improve the plan.

² Producers refer to individuals, including brokers and agents, who are licensed to sell insurance.

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3.0 BACKGROUND

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (together referred to as the Affordable Care Act or ACA) were signed by President Obama in March 2010. The law requires each state to establish health insurance exchanges³. In response to the ACA, and to ensure as little federal intervention as possible, Nevada enacted [Senate Bill 440](#) in June 2011 (later codified as [NRS Chapter 695I](#)) to establish the [Silver State Health Insurance Exchange \(Exchange\)](#).

The ACA requires the Exchange establish a Navigator program to⁴:

- a. Conduct public education activities to raise awareness of the availability of qualified health plans;
- b. Distribute fair and impartial information concerning enrollment in qualified health plans, and the availability of premium tax credits and cost-sharing reductions;
- c. Facilitate enrollment in qualified health plans;
- d. Provide referrals to any applicable office of health insurance consumer assistance, health insurance ombudsman or any other appropriate State agency, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage; and
- e. Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange.

Section 1311(i) of the ACA also allows licensed insurance agents and brokers to be Navigators⁵. However, Navigators shall not “receive any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any qualified individuals or employees of a qualified employer in a qualified health plan⁶.” Therefore, if a Producer chooses to be a Navigator, the Producer can no longer be paid by insurers, which will likely prohibit all Producers from participating in the Navigator program.

However, the ACA allows Producers to assist individuals to enroll in Qualified Health Plans (QHP) and apply for premium tax credits and cost sharing reductions, if the state allows⁷.

The final rule, published March 27, 2012 provides additional guidance regarding Navigator program standards⁸ and discusses the ability of states to permit Producers to assist qualified individuals, qualified employers, or qualified employees enrolling in QHPs⁹.

³ ACA Section 1311(b) American Health Benefit Exchanges

⁴ ACA Section 1311(i)(3) Navigators; Duties

⁵ ACA Section 1311(i)(2)(B) Navigators; Eligibility; Types

⁶ ACA Section 1311(i)(4)(A)(ii) Navigators; Standards

⁷ ACA Section 1312(e) Enrollment Through Agents or Brokers

⁸ 45 CFR § 155.210

⁹ 45 CFR § 155.220

4.0 PRODUCERS

Producers in Nevada play an important and influential role in the distribution of health insurance. Both individual consumers and business owners rely on Producers to sort through their health insurance options, provide health plan recommendations, and serve as their agents throughout the year in dealings with insurance companies. Producers in Nevada serve hundreds of thousands of policies.

Additionally, it should be noted that a large portion of uninsured Nevadans do not have insurance because it is expensive. The premium tax credit will make health insurance more affordable. Producers are currently positioned to assist these new entrants into the health insurance market. Producers will increase the awareness of the Exchange, increase enrollment in the Exchange and ultimately encourage the long term financial sustainability of the Exchange.

4.1 ROLES AND RESPONSIBILITIES OF PRODUCERS IN THE EXCHANGE

Producers who enroll individuals and employers in QHPs through the Exchange will act in much the same manner as Producers who sell insurance products in the pre-Exchange market. Producers will continue to provide individuals and employers with information regarding health insurance and assistance in enrollment in health plans. Additionally, many full-service brokerage firms provide assistance with claim and billing issues and assist employers in the creation of complete benefit packages. Producers are encouraged to continue to provide these value added services to individuals and employers.

In addition to the standard functions above, Producers that enroll individuals in QHPs through the Exchange must also understand the basics of the Exchange's web portal, Advanced Premium Tax Credits, structure of the Small Business Health Options Program (SHOP) Exchange, Medicaid enrollment and where to direct individuals who require social services from programs such as Supplemental Nutrition Assistance Program (SNAP; formerly food stamps) and Temporary Assistance for Needy Families (TANF).

4.2 LICENSING, CERTIFICATION AND TRAINING OF PRODUCERS

The final rule requires Producers to register with the Exchange, receive training in the range of QHP options and insurance affordability programs, and comply with the Exchange's privacy and security standards¹⁰.

Additionally, "an agent or broker that enrolls qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange or assists individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs must comply with applicable State law related to agents and brokers, including applicable State law related to confidentiality and conflicts of interest¹¹." Nevada's Division of Insurance (DOI) has statutory

¹⁰ 45 CFR § 155.220(d)

¹¹ 45 CFR § 155.220(e)

responsibility for licensing and overseeing Producers. The Division requires applicants to take and successfully pass the state insurance exam in the line(s) of authority for which the applicant is applying (e.g., health, property and casualty, life). Individuals applying for a resident license with the DOI must furnish a complete set of fingerprints and undergo a criminal history background check¹².

Producers seeking licensure in the State of Nevada to sell health insurance must take a course consisting of at least 5 hours of instruction in the provisions of title 57 of NRS and the regulations adopted pursuant to those provisions, at least one-half of which must cover the laws and regulations common to all lines of insurance, and at least 15 hours of instruction covering¹³:

- a. Principles and concepts of insurance in general;
- b. Basic principles and concepts of accident and health insurance;
- c. The contract for accident and health insurance and provisions of the policy;
- d. Accident and health insurance offered by private companies;
- e. Accident and health insurance offered by a governmental entity;
- f. Types of policies and coverage for accident and health insurance;
- g. Group insurance and plans of special insurance;
- h. The ethical responsibilities of the producer; and
- i. Regulation by the government.

Producers seeking to renew a license must successfully complete 30 hours of approved continuing education in the three years prior to renewal, at least 3 hours of which must be in the subject of ethics¹⁴.

Prior to enrolling individuals or employers in any QHP through the Exchange, Producers shall be certified by the Exchange. To be certified by the Exchange, a Producer shall¹⁵:

1. Have a license as a producer of health insurance pursuant to [NRS Chapter 683A](#); such license shall be in good standing with the DOI and shall not be revoked, suspended, expired or otherwise terminated;
2. Sign an agreement with the Exchange indicating the Producer agrees to comply with the Exchange's privacy and security standards; and
3. Complete 8 hours of training in the following subjects:
 - a. Coverage available through the Exchange (1 hour)
 - b. Eligibility requirements (1 hour)
 - c. Advanced Premium Tax Credits (1 hour)
 - d. Publically funded health care and public assistance programs and referrals (Medicaid, CHIP, SNAP, TANF) (1 hour)
 - e. Exchange web portal operation (2.5 hours)
 - f. Enrollment appeal and dispute resolution (1.5 hours)

A certification test will be administered at the end of the course to demonstrate what knowledge the attendee has retained. A passing score is 80% or better.

¹² [NRS 683A.251](#)

¹³ [NAC 683A.221](#)

¹⁴ [NAC 683A.330](#)

¹⁵ 45 CFR § 155.220(d) & (e)

Producers who wish to maintain their certification will be required to complete 4 hours of continuing education per year on the topics provided during the initial training session.

4.3 PRODUCER COMPENSATION

Producers will not be compensated by the Exchange. Producers will receive compensation from carriers, for enrollment in the Exchange, in accordance with the Producers' contracts with the carriers in the same or similar manner as is done today. These contracts are outside the purview of the Exchange. However, the Exchange enrollment system will accept the Producer's National Producer Number (NPN) and transmit that data to the carrier so that the Producer can receive the commission directly from the carrier, in whichever manner is provided for in the contract.

4.4 PERFORMANCE METRICS

The Exchange will monitor available enrollment metrics so the Exchange can provide reasonable future improvements to the system. Producers will enter their NPN into the web portal when assisting a consumer with enrollment. This code will help staff review enrollment trends and monitor post enrollment surveys. Enrollment trends can be analyzed to determine if certain Producers are steering business in a manner that is statistically significant when compared to other Producers. Post transaction surveys will be available to the consumer so that they may provide feedback on the purchasing experience.

5.0 NAVIGATORS

The Exchange must have consumer assistance functions, including a Navigator program, and must refer consumers to consumer assistance programs in the State when available and appropriate¹⁶. Section 1311(i)(3) of the ACA states Navigators will "facilitate enrollment in qualified health plans" offered by the Exchange and "provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange". Navigators in the Exchange will complement the services provided by Producers by facilitating the enrollment of non-traditional populations that typically do not purchase insurance. These groups include people who are eligible for publicly funded health care (CHIP and Medicaid) and those individuals who do not have the means or ability to travel to a producer (Native Americans living on reservations, rural ranchers, farmers and persons with disabilities). Navigators will serve an important role in educating and enrolling individuals and groups that typically will not enroll unless called upon.

Navigators will consist of individuals, public entities and private entities that will communicate with, educate and enroll consumers in Qualified Health Plans (QHPs) and publicly funded health care through the multiple enrollment methods provided by the Exchange. Navigators and Producers will work in concert to ensure all Nevadans have access to health insurance coverage.

¹⁶45 CFR § 155.205(d)

The Exchange must offer Navigator grant funds to a community and consumer-focused nonprofit group and an entity from at least one of the following categories:¹⁷

- Trade, industry and professional associations
- Commercial fishing industry organizations, ranching and farming organizations
- Chambers of commerce
- Unions
- Resource partners of the Small Business Administration
- Licensed agents and brokers
- Other public or private entities or individuals that may include but are not limited to Native American tribes, tribal organizations, urban Indian organizations, and State or local human service agencies.

The above entities will receive the Navigator designation if they successfully submit an approved Navigator grant application and have employees or associated volunteers who have become certified Navigators. Only individuals certified as Navigators may carry out the functions of a Navigator.

Navigators must not be:¹⁸

- A health insurance issuer;
- A subsidiary of a health insurance issuer;
- An association that includes members of, or lobbies on behalf of, the insurance industry; or
- An entity or individual that receives any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any individuals or employees in a QHP or a non QHP; this requirement excludes providers (hospitals and doctors) and Producers from becoming Navigators if they continue to receive funds from carriers.

5.1 ROLES AND RESPONSIBILITIES OF NAVIGATORS

Navigators will be responsible for outreach, education and enrollment for the currently uninsured or underinsured populations and will present to those populations the options available under the ACA. This outreach and education will include information regarding the ACA as it relates to the Exchange including but not limited to:

- Program Eligibility- Rules to purchase subsidized insurance through the Exchange and eligibility for Medicaid, CHIP, Medicare or other programs;¹⁹
- Methods of Purchase- Different means available to purchase and enroll in a QHP: Exchange web portal, Exchange call-in center, walk-in centers, kiosks located in community service centers and state agencies, mail in applications and fax applications;
- Reasons to Purchase- Education on the benefits of health insurance and what health insurance provides for the individual;

¹⁷ 45 CFR § 155.210(c)(2)

¹⁸ 45 CFR § 155.210(d)

¹⁹ 45 CFR § 155.210(e)(1)

- Definitions of health insurance terms- For Example, aiding the consumer to understand the difference between a premium, deductible and co-insurance;
- Dispute Resolution- Aiding the consumer to find avenues to resolve disputes with carriers, such as directing them to the DOI and GOVCHA, and referring enrollment disputes to the Exchange;²⁰
- Cultural Diversity- Providing culturally and linguistically appropriate health insurance education to Hispanics, Asians, American Indians and other groups;²¹
- Group Outreach Opportunities- Outreach to consumers typically in group settings, focusing on broad topics related to health insurance and coverage options;
- Access to enrollment locations- Provide access to locations or mobile computing centers that will facilitate access to the Exchange's web portal, call center, or FAX line or provide the ability to print and mail hard copies of enrollment documents to the Exchange processing center;²²
- Answers to enrollment questions- Address questions regarding access to any of the enrollment methods and the submission of enrollment documentation to the Exchange;
- Explain eligibility criteria- Explain the eligibility criteria for purchasing insurance through the Exchange, enrolling in Medicaid and other State programs designed to provide medical coverage;
- Provide documentation- Provide the consumer with documentation regarding the available plans, enrollment letters stating the date coverage will start, etc.; and
- Furnish unbiased explanations of coverage provided on the web portal- The enrollment Navigators must not offer any opinion or editorial on the QHPs in the Exchange.²³ Information provided by Navigators must be limited to that information available on the web portal.

5.2 LICENSING, CERTIFICATION AND TRAINING OF NAVIGATORS

Navigators will require certification and licensing by the Exchange and Division of Insurance (DOI). The Exchange and DOI are currently working on the exact type of licensing that will be required. Legislation may be required to allow for licensing of Navigators.

Training, certification and licensing of Navigators will be paid for by the Exchange. However, entities wishing to certify their employees or associated volunteers as Navigators must pay the Exchange in advance for the cost of training, certification and licensing. The entity will be reimbursed by the Exchange upon certification.

To become certified, Navigators will be required to attend training provided by the Exchange. This training will consist of an initial 3 or 4 day (24 hour) training course consisting of:

- Coverage available under the ACA (2 hours);
- Qualified Health Plans (actuarial values, co-insurance, co-pays, deductibles) (4 hours);

²⁰ 45 CFR § 155.210(e)(4)

²¹ 45 CFR § 155.210(e)(5)

²² 45 CFR § 155.210(e)(1) and (3)

²³ 45 CFR § 155.210(e)(2)

- Exchange eligibility requirements (4 hours);
- Advanced Premium Tax Credits and Cost Sharing Reductions (2 hours);
- Publically funded health care (CHIP, Medicaid) (3 hours);
- Means of appeal and dispute resolution (2 hours);
- Conflict of interest and impartiality (1 hour);
- Exchange privacy policies and requirements (2 hours);
- Use of web portal (2 hours); and
- Testing (2 hours);

A certification test will be administered at the end of the course to demonstrate what knowledge the attendee has retained. A passing score is 80% or better.

Recertification of Navigators will consist of two days (16 hours) of update training per year. Update training will consist of topics covered in the initial training period and updates on any new or changed regulations. Navigators must attend these trainings and complete annual recertification tests to maintain their active Navigator status and funding source.

The U.S. Department of Health and Human Services (HHS) indicates that it will release model Navigator training standards. This training outline may be adjusted based on the model released by HHS.

5.3 NAVIGATOR COMPENSATION

All Navigators participating in the Exchange will receive funding through a competitive grant process. Potential Navigators will submit applications requesting consideration as a Navigator. This application should²⁴:

- Demonstrate to the Exchange that the entity has existing relationships, or could readily establish relationships, with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be eligible for enrollment in a QHP;
- Demonstrate willingness to meet any licensing, certification or other standards prescribed by the State or Exchange;
- Include contract language that indicates the entity will not have a conflict of interest during its term as Navigator, and if a conflict of interest occurs, the Navigator may be required to pay back Navigator grant funds to the Exchange;
- Demonstrate that the entity has processes in place that comply with the privacy and security standards adopted by the Exchange as required in accordance with § 155.260; and
- Demonstrate how the organization's business model, service area and clientele will be leveraged to support the Navigator mission and show how Navigator funds will support the Navigator mission and ancillary functions of the entity.

²⁴ 45 CFR § 155.210(c)(1)

The Exchange will review applications and ask the successful applicants to submit competitive grant applications to the exchange through a biennial request. The Exchange will review and award grants to qualified Navigator groups based throughout the state of Nevada. Currently the Exchange has budgeted \$250,000 for Navigator grants.

5.4 NAVIGATORS AND CONFLICTS OF INTEREST

Navigators cannot have conflicts of interest, financial or otherwise, and will need to comply with the Exchange's privacy and security standards. Specifically, Navigators cannot receive any consideration, financial or otherwise, from carriers. The final rule allows the Exchange to set the standards. However, the preamble to the rules suggests that the conflict of interest standards include, but not be limited to, the following:

“financial considerations; nonfinancial considerations; the impact of a family member's employment or activities with other potentially conflicted entities; Navigator disclosures regarding existing financial and non-financial relationships with other entities; Exchange monitoring of Navigator-based enrollment patterns; legal and financial recourses for consumers that have been adversely affected by a Navigator with a conflict of interest; and applicable civil and criminal penalties for Navigators that act in a manner inconsistent with the conflict of interest standards set forth by the Exchange.”²⁵

HHS indicates that it will release model conflict of interest standards.

5.5 PERFORMANCE METRICS

The Exchange will monitor available enrollment metrics so the Exchange can provide reasonable future improvements to the system. Upon certification, Navigators will be assigned a Navigator ID Number (NIDN). Navigators will enter their NIDN into the web portal when assisting a consumer with enrollment. This code will help staff review enrollment trends and monitor post enrollment surveys. Enrollment trends can be analyzed to determine if certain Navigators are steering business in a manner that is statistically significant when compared to other Navigators. Post transaction surveys will be available to the consumer so that they may provide feedback on the purchasing experience.

²⁵ Preamble to the final rule, Federal Register, Vol. 77, No. 59, Tuesday, March 27, 2012, Rules and Regulations, page 18331.